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| Joseph J. Laks | | | EXAMINER | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/540,457

Applicant(s)

STAUDER ET AL.

Examiner

KIEU D. VU

Art Unit

2175

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date 6-22-05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This Office Action is in response to the Preliminary Amendment filed on 6/22/05.
2. Claims 1-17 are pending.

Specification

3. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 4-5 and 16 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 4-5 and 16 recite transmission (medium/signal). As such the claims are directed to non-statutory subject matter.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding independent claims 1 and 13, it is not clear which "the latter" refers to.

Regarding independent claim 13, it is not clear which "it" refers to.

Dependent claims 2-12 and 14-17 incorporate the above deficiencies.

Regarding claims 4, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Regarding claims 4, 5, 8, and 16, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Regarding claim 6, the claim recites the broad recitation "less than ten", and the claim also recites "less than six" which is the narrower statement of the range/limitation. A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949).

Regarding claims 14-17, it is not clear which "it" refers to.

Regarding claims 4 and 16, the claimed subject matter is not definitely recited. It is not clear what the Applicant is trying to claim. .

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Inoue et al ("Inoue", "Image Filing System Capable of Quick Retrieval, Feb 1986).

Regarding claims 1 and 13, Inoue teaches process for access to multimedia elements stored by means of digital data, an image being associated with each element so as to control access to the latter (page 10, "Image Retrieval", "Keyword Retrieval") wherein, when one wishes to access one of these elements, a first group of images associated with first elements is displayed, and means for displaying a second group of images associated with second elements, which group is distinct from the first group of images, are associated with at least one of these displayed images (pages 10-12, Fig. 8).

Regarding claims 2 and 14, Inoue teaches wherein means for displaying a third group of images associated with third elements, which group is distinct from the second group of images, are associated with at least one of the images of the second group of images (pages 10-12, Fig. 8).

Regarding claims 3 and 15, Inoue teaches wherein a first group of images is displayed automatically as soon as means for displaying images are activated (retrieved) (pages 10-12, Fig. 8).

Regarding claims 4-5 and 16, Inoue teaches wherein when an operation is performed on a multimedia element such as the display thereof, the storage thereof or the transmission thereof, means activating the display of a first group of images are displayed (pages 10-12, Fig. 8) and wherein when a group of images is displayed, means controlling operations, such as a modification, a storage or a transmission, are also displayed.

Regarding claim 6, Inoue teaches wherein the number of images displayed is less than ten, preferably less than six (Fig. 8).

Regarding claim 7, Inoue teaches wherein the elements corresponding to one and the same selection criterion forming a group, images associated with elements belonging to one and the same group are displayed in a group (pages 10-12, Fig. 8).

Regarding claim 8, Inoue teaches wherein one selects an image and/or a group from which are chosen images displayed by considering at least one of the following criteria: a frequency of access, a date of storage, a file size, technical parameters specific to the associated images such as a predominance of colour or the presence of determined reliefs in this image, a theme associated with the element, membership of one and the same semantic group, a similarity relating to the nature and/or to the content of the element, a random decision or a user's preferences (common theme) (Fig. 8-9).

Regarding claim 9, Inoue teaches wherein the multimedia elements relate to video sequences, images, pieces of music and/or texts (images) (Fig. 8-9).

Regarding claim 10, Inoue teaches wherein a multimedia element relating to a

photograph or to a video sequence, the image associated with this element is generated from this photograph or from this video sequence (page 5, Fig. 2).

Regarding claim 11, Inoue teaches wherein an element is accessed by generating the display thereof (Fig. 8)

Regarding claims 12 and 17, Inoue teaches wherein the displaying of the images is performed according to a chronological mode or according to a thematic mode (common theme, Fig. 9).

9. The prior art made of record on form PTO-892 and not relied upon is considered pertinent to applicant's disclosure.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kieu D. Vu. The examiner can normally be reached on Mon - Thu from 7:00AM to 3:00PM at 571-272-4057.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Bashore, can be reached at 571-272-4088.

The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

571-273-8300

and / or:

571-273-4057 (use this FAX #, only after approval by Examiner, for "INFORMAL" or "DRAFT" communication. Examiners may request that a formal paper / amendment be faxed directly to them on occasions).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Kieu D Vu/

Primary Examiner, Art Unit 2175